

EA

AIRGRAM

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DEPARTMENT OF STATE

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TO: Department of State

INFO: BRISBANE, JAKARTA, MELBOURNE, PERTH, PORT MORESBY,
SYDNEY, WELLINGTON

FROM: Amembassy CANBERRA

DATE: 2/22/77

E.O. 11652: N/A

TAGS: ENRG, EMIN, PLOS, AS

SUBJECT: Renewed Commonwealth-State Confrontation over Sovereignty
over Offshore Areas

REF: 75 Canberra 8453 EA

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ORIGIN/ACTION

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Western Australia's Premier Sir Charles Court, supported by the Premiers of South Australia, Queensland and Victoria, again entered the verbal battle with the Commonwealth Government over the issue of sovereignty over the offshore areas of Australia. Despite a ruling of the Australian Full High Court in December, 1975, which puts offshore sovereignty in the hands of the Commonwealth, the States believe they have a right to some control over the mineral and fishing resources of the offshore areas.

The High Court ruling of December 17, 1975, stated that the Commonwealth has sovereignty over the airspace, water column, seabed, and subsoil of the territorial sea and continental shelf of Australia, however delineated. The ruling validated the "Seas and Submerged Lands Act, 1973." This Act had resulted in the States bringing suit against the Commonwealth challenging the validity of the 1973 legislation.

The High Court Decision on the validity of the "Seas and Submerged Lands Act, 1973," does not apply to the production of petroleum resources in offshore areas. The

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CLASSIFICATION

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CLEARANCES:

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exploration and exploitation of petroleum resources in offshore areas is covered by the "Petroleum (Submerged Lands) Act, 1967." This Act provides for joint State-Commonwealth cooperation in developing offshore petroleum resources.

COMMENT:

Sir Charles Court, one of the most outspoken critics of Commonwealth policy concerning offshore sovereignty, has refused to accept the ruling of the High Court and views Commonwealth intervention in offshore resource sovereignty issues, as actions against state sovereignty which cast grave doubts on the Commonwealth Government's avowed policy of "cooperative federalism." Court's outburst this time is probably fueled by some private feud with the Commonwealth concerning the potential development of North-West Shelf hydrocarbons. This is sheer speculation because legally, the "Seas and Submerged Lands Act, 1973" does apply to offshore petroleum resources.

Premier Bjelke-Petersen of Queensland is irked with the Commonwealth for its failure to permit greater State participation in the maritime boundary negotiations between Australia and Papua New Guinea.

Commonwealth officials are on record that the States will have a role in the development of offshore resources despite the High Court ruling. It is true that the Commonwealth has consulted with the States to some extent on issues concerning the development of the North-West Shelf and the maritime boundary between Australia and Papua New Guinea in the Torres Strait. However, the renewed criticism of the Commonwealth in its handling of offshore resource sovereignty issues implies that all is not well in State-Commonwealth relations concerning the development of Australia's offshore resources.

HARGROVE 

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